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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/071,643 | 02/07/2002 | Charles Bradley Green | 25040-0619 | 1667 |

7590 03/30/2004

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EXAMINER

ALEXANDER, REGINALD

ART UNIT PAPER NUMBER

1761

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/071,643 | GREEN, CHARLES BRADLEY | |
| | Examiner | Art Unit | |
| | Reginald L. Alexander | 1761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 and 38-51 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10, 18-20, 22-25, 27-29 and 32 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 21, 26, 30, 31 and 33-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Beaulieu et al.

There is disclosed in Beaulieu a beverage system for brewing a beverage from a beverage material and a source of hot , pressurized water, comprising: a cartridge 50 (details of the cartridge are given in US Pat # 5,840,189 which is incorporated into the Beaulieu reference) with beverage material therein, with element 14 forming the cartridge having beverage material therein and elements 12 and 16 forming a surrounding airtight sealing layer around the beverage material; an injection system for injecting the hot water into the cartridge, the injection system comprising: a nozzle 126; and an injection head 40 positioned about the nozzle, the injection head having a sealing ring 153 positioned about the nozzle; and a drive system 37, 39 for maneuvering the injection head about the cartridge.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beaulieu et al in view of Illy et al.

Illy discloses that it is known in the art to use an eccentric cam 34 in a drive system for maneuvering an injection head assembly upon a beverage cartridge for the injection of hot water. It would have been obvious to one skilled in the art to substitute the drive system of Beaulieu with that disclosed in Illy, in order to simplify the process of moving the injection assembly up and down.

Claims 18-20, 22-25 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vicker in view of Favre.

There is disclosed in Vicker a beverage brewing device comprising: a cartridge 20 with a beverage material therein, the cartridge having a sealing layer 20' positioned about the beverage material; an injection system 34 for injecting hot, pressurized water into the cartridge; a plate 26 having a plurality of apertures 30 therein to directly accommodate a cartridge; a drive motor 70 to rotate the plate; and a loading assembly 36.

Favre discloses a beverage injection system comprising: an injection nozzle 18 for penetrating a beverage cartridge; an injection head 20 positioned about the injection nozzle, the injection head having a sealing ring 16.

It would have been obvious to one skilled in the art to substitute the injection system of Vicker with that taught by Favre, in order to provide a more direct application of the brewing liquid to the beverage material.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vicker in view of Favre as applied to claims above, and further in view of Cortese.

Cortese discloses that it is known in the art to provide an ejection system 39 about the rotary plate of a beverage brewing system to remove brewing cartridges.

It would have been obvious to one skilled in the art to provide the device of Vicker with the ejection system taught by Cortese, in order to remove used beverage brewing cartridges from the rotary plate.

Allowable Subject Matter

Claims 8, 9, 21, 26, 30, 31 and 33-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 37 is allowed.

Response to Arguments

Applicant's arguments filed February 13, 2004 have been fully considered but they are not persuasive. It can be seen in figures 2 and 4 that the element 14 of Sylvan et al forms a cartridge for containing a beverage material and cover 16 permanently joined in a hermetically sealed relationship with the upper lip of a base 12 forms a sealing layer around the cartridge and beverage material.

In regards to applicant's arguments concerning claim 18, Vicker discloses beverage containers (cartridges) 20 and apertures (pockets) 30 for directly supporting the cartridges.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

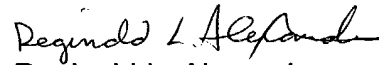
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
March 25, 2004


Reginald L. Alexander
Primary Examiner
Art Unit 1761